

REMARKS

Applicants have reviewed and considered the non-final Office Action mailed on December 12, 2008 ("the Office Action"), and the references cited therewith. Claims 1-19 and 21-30 are pending in the present application. Claims 1, 2, 8, and 10-13 are amended. Claims 21-30 is added. Support for the claim amendments and new claims can be found in the claims as originally filed, and in the Applicants' patent application on at least page 5, lines 1-7; page 5, lines 15-19; page 10, line 19 - page 11, line 15; page 18, lines 15-21; and Figures 5, 6, and 9. Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

Claim Rejections – 35 U.S.C. § 103; Claims 1-6, 9, 10, and 12-17

The rejection of claims 1-6, 9, 10, and 12-17 under 35 U.S.C. § 103 as obvious over U.S. Patent 5,827,246 (hereinafter "Bowen") in view of 3,978,855 (hereinafter "McRae") and further in view of U.S. Patent 5,419,913 (hereinafter "Podell") is maintained in the Office Action. This rejection is respectfully traversed.

In responding to Applicants' previous remarks, the Office Action states that "any distribution of negative pressure is purely passive on the part of the pad," and that "the pad does not actively distribute the negative pressure to the wound." (Office Action, page 2). Applicants have amended claims 1 and 10 accordingly to clarify that the porous pad is not the source of the negative pressure, but rather distributes negative pressure that is provided by a separate source, i.e., the suction pump. Although the Office Action also states that "there is no support or enablement in the disclosure for a pad that distributes negative pressure," at least the following portions of the Applicants' Specification provide ample support and enablement for the claimed feature of claims 1 and 10:

"In accordance with the present invention, there is provided a therapeutic apparatus for stimulating healing of wounds, said apparatus including a housing that contains a vacuum pump and a chamber for holding a disposable wound drainage collection cannister. The cannister preferably resides within the chamber and connects at an outlet with the vacuum pump and at an inlet with a pad. The pad is of a porous, compliant material which works well for distributing gas

pressure in the wound environment and which also complies with the negative air flow.” (page 5, lines 1-7)

“Thus, when the vacuum pump activates, it evacuates air from the canister and thence the wound environment, resulting in the application of negative pressure to the wound, which in turn tends to promote drainage of fluids flowing from the wound into the canister.” (page 5, lines 15-18)

“Wound fluids (i.e. drainage) are communicated through inlet 35 into canister 19 via pad 36 and hoses 37 and 38. In this preferred embodiment, the portion of the pad 36 next to the vacuum tube 37 (i.e. inner portion or surface) is fabricated from an open cell polyurethane or polyether foam. The outer surface of the pad 36 in contact with the wound cavity 216 can consist of the same material as the inner portion or surface next to the vacuum tube 37 where the size of the pores is 100 microns or less. Hose 37 is inserted within pad 36 by making an incision in pad 36 and inserting the end of hose 37. Hose 37 can then be secured within pad 36 using any suitable means such as an adhesive or a flange.” (page 10, line 19 - page 11, line 6)

“The pad 36, with top 203, bottom 204, and side 206 and vacuum compatible pores 205, contains a vacuum tube 37 for use in extending the negative air pressure through the pad 36 for aspiration of the wound cavity 216.” (page 16, lines 4-6)

“The placement of canister 19 within recess 18 such that outlet 44 resides over port 45 couples canister 19 to a vacuum pump 84. The vacuum pump 84 removes air from canister 19 to create a vacuum pressure within canister 19. That vacuum pressure is then transmitted to a wound site through hoses 37 and 38, thereby not only enabling therapeutic use of system 10, but also tending to promote wound drainage. Any wound drainage fluid is then drawn through pad 36 and hoses 37 and 38 into canister 19.” (page 18, lines 15-21)

Figures 5, 10, 15, and 16 also support the feature of a porous pad distributing negative pressure to a wound. Thus, this feature is supported and enabled by Applicants' patent application.

The Office Action also states that the feature of a porous pad “distributing negative pressure to a wound” is a functional limitation, and that the cited references render all of the structural limitations recited in claim 1. Claim 1 has been amended to further clarify the structural limitations of the porous pad by reciting language that the porous pad is “...adapted...to be fluidly coupled to said suction pump for distributing the

negative pressure to the wound.” Thus, the porous pad, as defined in claim 1, does not include a functional limitation even though it does distribute negative pressure to the wound as supported by the specification. Claim 10 has been amended to include the same limitation. As explained in the previous Response, none of the cited references, either alone or in combination, teach or suggest a porous pad having such structural characteristics. Thus, claims 1 and 10, and all claims dependent therefrom, are allowable.

Claim Rejections – 35 U.S.C. § 103 - Claims 7, 8, 11, 18, and 19

Claim 7 is rejected under 35 U.S.C. § 103 as obvious over Bowen in view of McRae and further in view of Podell as applied to Claim 1 above, and further in view of U.S. Patent 4,997,425 (hereinafter “Shioya”). Claims 8, 11, 18, and 19 are rejected under 35 U.S.C. § 103 as obvious over Bowen in view of McRae and further in view of Podell as applied to Claims 1 and 10 above, and further in view of U.S. Patent 6,252,129 (hereinafter “Coffee”). These rejections are respectfully traversed. Claims 7, 8, 11, 18, and 19 are allowable by virtue of their dependency on claims 1 and 10.

New Claims 21-30

Applicants have added new claims 21-30. None of the cited references anticipate or constitute *prima facie* obviousness against new claims 21-30. Therefore, claims 21-30 are in condition for allowance.

CONCLUSION

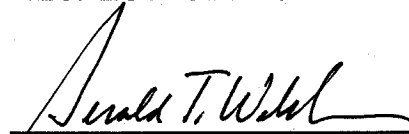
Applicants respectfully submit that the pending claims 1-19 and 21-30 are in condition for full allowance and the same is respectfully requested.

Based on the previous cancellation of one claim, it is believed that additional claim fees are required for only nine of the ten claims that were added. A fee of \$468.00 is believed to be required. To provide for the possibility that Applicants have overlooked the need for a fee, including a fee for an extension of time under 37 C.F.R. 1.136(a), the Commissioner is hereby authorized to charge any underpayment of fees or credit any overpayment to Deposit Account No. 19-3140 of Sonnenschein Nath & Rosenthal LLP.

The Examiner is invited to call the undersigned at the below-listed telephone number if, in the opinion of the Examiner, such a telephone conference would expedite or aid the prosecution and examination of this application. Any communication initiated under this paragraph should be deemed an "Applicant-Initiated Interview."

DATE: 3/12/09

RESPECTFULLY SUBMITTED,



Gerald T. Welch
Reg. No. 30,332
Sonnenschein, Nath & Rosenthal
2000 McKinney Avenue, Suite 1900
Dallas, Texas 75201
Phone: (214) 259-0900
Fax: (214) 259-0910